



Preserving America's Heritage

GUIDE TO WORKING WITH NON-FEDERALLY RECOGNIZED TRIBES IN THE SECTION 106 PROCESS

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Introduction and Purpose

The National Historic Preservation Act of 1966 (NHPA)¹ established a comprehensive program to preserve the historical and cultural foundations of the nation. Section 106² of the NHPA is central to that program and requires federal agencies to consider the effects of projects they carry out, assist, fund, permit, license, or approve (undertakings) on historic properties.³ As part of this review process, federal agencies consult with interested parties to identify and evaluate historic properties, assess the effects of the undertakings on these properties, and attempt to negotiate an outcome that will balance project needs and historic preservation values.⁴ Federal agencies must consult with certain parties, including the State Historic Preservation Officers (SHPO), Tribal Historic Preservation Officers (THPO) (when projects are on or affect historic properties on tribal lands), and Indian tribes or Native Hawaiian organizations (NHOs) when historic properties of religious and cultural significance to them may be affected by undertakings. Federal agencies should also consider reaching out to other parties when gathering information about historic properties or to obtain their views about historic properties that may be important to them, which is the focus of this guide.

This document provides information and guidance for federal agencies regarding engagement with non-federally recognized tribes in the Section 106 process. The question of inviting non-federally recognized tribes to participate in the consultation process can be both complicated and sensitive and thus deserves careful consideration. State-recognized tribes and other tribal entities and organizations often have interests in undertakings within their homelands, just as federally recognized Indian tribes do. Non-

1 <http://www.achp.gov/docs/NHPA%20in%20Title%2054%20and%20Conversion%20Table.pdf>; 54 U.S.C. § 300101 et seq.

2 <http://www.achp.gov/106summary.html>; 54 U.S.C. § 306108 and its implementing regulations at 36 C.F.R. part 800.

3 Historic properties are defined as those properties that are listed, or are eligible for listing, on the National Register of Historic Places.

4 <http://www.achp.gov/apptoolkit.html>

federally recognized tribes may be invited by federal agencies to participate in the Section 106 process as parties with demonstrated interests in projects or they may seek to participate through collaboration with federally recognized Indian tribes already engaged in the process.

The indigenous populations in Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, Republic of the Marshall Islands, the Federated States of Micronesia and the Republic of Palau, like non-federally recognized tribes, do not have formal government-to-government status with the U.S. government as federally recognized Indian tribes do, but may have important information to contribute to the Section 106 process.

In addition to consultation requirements outlined in federal law such as the NHPA, the United Nations Declaration on the Rights of Indigenous Peoples (U.N. Declaration),⁵ which has been supported by the United States since 2010, encourages recognition of the special status and rights of indigenous peoples globally. While not legally binding, it is acknowledged by the U.S. as having “both moral and political force.”⁶ In 2013, the ACHP adopted a plan to support the U.N. Declaration, acknowledging intersections between Section 106 and the Declaration. While many articles in the U.N. Declaration relate to or intersect with Section 106, Article 18 most directly addresses the rights of Indian tribes and NHOs in the decision-making processes related to Section 106. Article 18 states that, “Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.” The fact that the Declaration includes a provision regarding the rights of indigenous peoples to participate in decision making underscores the importance of federal agency consultation with all indigenous peoples in the United States in the Section 106 process when historic properties of significance to them may be affected by proposed undertakings.⁷

Terminology

It should be understood, at the outset, that the term “Indian tribe” is defined in the NHPA as “... an Indian tribe, band, nation, or other organized group or community, including a Native village, Regional Corporation or Village Corporation (as those terms are defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C 1602)), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.” Therefore, the term “Indian tribe” refers to federally recognized Indian tribes. The federal government has a unique political and legal relationship with Indian tribes not shared by non-federally recognized tribes. The federal government has a trust responsibility to Indian tribes that it does not have with non-federally recognized tribes. And, the federal government works with Indian tribes on a nation-to-nation basis but does not do so with any other indigenous groups including NHOs.

For purposes of this guidance, the term “Indian tribe” is used to mean those tribes that are federally-recognized, consistent with the NHPA definition. While the term “non-federally recognized tribe” is not defined on a national level, it can include state-recognized tribes and tribal entities without state or federal recognition. Often, tribal entities without state recognition are still recognized by national Indian organizations and inter-tribal coalitions. Also, organizations can include both federally and non-federally recognized tribes and members. One example of this is the National Congress of American Indians (NCAI), whose membership includes federally recognized and non-federally recognized tribes.⁸ State-level Indian Commissions and organizations also often include non-federally recognized tribes in their

5 http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf

6 <http://www.state.gov/s/tribalconsultation/declaration/>

7 For a more detailed discussion of Article 18 and Section 106: <http://www.achp.gov/docs/UNDeclaration106.pdf>

8 See the NCAI tribal directory at <http://www.ncai.org/tribal-directory?page=1>.

membership. And many federally recognized tribes have strong and long-standing relationships—as well as kinship ties—with non-federally recognized tribes and recognize them as tribes.

Involving Non-Federally Recognized Tribes in the Section 106 Process

In carrying out Section 106, a federal agency may invite state-recognized tribes or tribes with neither federal nor state recognition to participate in consultation as “additional consulting parties” based on a “demonstrated interest” in an undertaking’s effects on historic properties.⁹

The decision whether or not to invite a non-federally recognized tribe is a discretionary decision by the federal agency.¹⁰ While the NHPA provides Indian tribes the right to be consulted in Section 106, the term “Indian tribe” as defined in the NHPA refers only to federally-recognized Indian tribes. In other words, only federally-recognized Indian tribes that attach religious and cultural significance to historic properties that may be affected by proposed undertakings have the right to be consulting parties in the Section 106 process. The NHPA also affords Native Hawaiian organizations the right to participate in Section 106 consultation when historic properties of religious and cultural significance to them may be affected by a federal undertaking. The inclusion of non-recognized tribes in Section 106 consultation does not in any way substitute for, nor is it equal to, the government-to-government relationship Indian tribes have with the federal government.

While non-federally recognized tribes do not have a statutory right to be consulting parties in the Section 106 process, an agency may invite them to consult, as noted above, if they have demonstrated interest in a project. They may also have important information about historic properties in the project area.¹¹ For example, some non-federally recognized tribes still have ancestral ties to an area or still occupy their aboriginal territory. Members of non-federally recognized tribes may be direct descendants of indigenous peoples who once occupied an area affected by an undertaking, or can provide additional information regarding historic properties that should be considered in the review process.

While federal agencies should consider whether a non-federally recognized tribe has a demonstrated interest, the inclusion of non-recognized tribes in consultation may raise objections from some Indian tribes. Yet, other Indian tribes routinely support the inclusion of non-recognized tribes in consultation, recognizing their interests as well. In some areas, members of Indian tribes and non-federally recognized tribes are related through both kinship and socio-political connections. One potential difficulty is when groups or individuals claim to represent Indian tribes or present themselves as Indian (federally or non-federally recognized) when they cannot substantiate these claims. When questions arise concerning such situations, the state Indian commission (or similar agency) is often a useful resource for clarification. The SHPO, state archaeologist or other office designated to handle Section 106 review could also be of assistance with these questions. Indian tribes can also be a good resource to verify tribal affiliation of individuals, as well as non-recognized tribes with enrolled members.

The ultimate decision on whether to consult with non-federally recognized tribes rests with the federal agency. The decision should be given careful consideration and must be made after consultation with the relevant SHPO (or the THPO or designated tribal official if the undertaking is on tribal lands or affects

9 36 C.F.R. §§ 800.2(c)(5) and 800.3(f)(3)

10 For purposes of this guide’s discussion of consulting party status, the assumption is made that the non-federally recognized tribe is not the applicant for the relevant federal assistance, permit, license or approval in the undertaking. Such applicants are entitled to be consulting parties in the Section 106 process regardless of whether they are non-federally recognized tribe or any other type of entity. 36 C.F.R. § 800.3(c)(4).

11 36 C.F.R. § 800.2(c)(5)

historic properties on tribal lands).¹² In addition, the federal agency may elicit input on the question from any Indian tribes that are consulting parties in the process. If the federal agency decides it is inappropriate to invite non-federally recognized tribes to consult as “additional consulting parties,” those tribes can still provide views and information to the federal agency as members of the public.¹³

Not granting consulting party status to parties that have a demonstrated interest in affected historic properties is legally allowable but may defeat the ultimate intent of Section 106. The process is intended to ensure federal agencies make informed decisions on undertakings that could affect historic properties and reasonably attempt to resolve adverse effects to them. Because non-federally recognized tribes may have information that assists the Section 106 process, consulting with them can enhance agencies’ decision-making processes.

Rather than denying a party the opportunity to participate in consultation, there may be ways in which every party can be accommodated. For instance, separate consultation meetings can be held, with information and views shared amongst all consulting parties, as appropriate. Sometimes, Indian tribes are only willing to share sensitive information with the federal agency (as part of the government-to-government relationship) and not with other consulting parties, including other tribes (federally recognized or non-federally recognized). If confidentiality concerns are foreseeable, the federal agency should have a plan in place for handling these concerns in accordance with applicable law. Such a plan would also provide parties with clear expectations about how these issues will be handled. Confidentiality of sensitive information is a very important issue in Section 106 tribal consultation, and for all stakeholders in the process.

While many tribes in the U. S. are not recognized by the federal government for a number of reasons, various tribes and tribal organizations may still play a role in the Section 106 process. Inter-tribal coalitions or organizations are not federally recognized tribal entities, but may be comprised of federally and non-federally recognized tribal members and wish to consult as interested parties on a federal undertaking. For example, the Affiliated Tribes of Northwest Indians (ATNI) is organized and chartered as a non-profit 501(c)(3) corporation in Oregon representing 57 Northwest federally recognized and non-federally recognized tribal governments from Oregon, Washington, Idaho, Northern California, Southeast Alaska, and Western Montana.¹⁴ ATNI may be interested in Section 106 consultation for larger projects affecting several tribes in the organization. A smaller but similar intertribal organization in the Great Lakes region representing the interests of multiple tribes that could also be interested in Section 106 undertakings is MACPRA (Michigan Anishinaabek Cultural Preservation and Repatriation Alliance). This organization is also comprised of both federally and non-federally recognized tribes that work together on repatriation and cultural preservation issues.¹⁵

Why Some Tribes Are Not Federally Recognized

In at least 16 states, tribal entities are recognized at the state level as having self-government authority outside of federal processes: Alabama, California, Connecticut, Delaware, Georgia, Louisiana, Maryland, Massachusetts, Montana, New Jersey, New York, North Carolina, Texas, Vermont, Virginia and Washington.¹⁶ As a result of historical circumstances, some states have complicated situations. For instance, in California there are over 100 federally-recognized tribes and many non-federally recognized

12 36 C.F.R. § 800.3(f)(3)

13 36 C.F.R. § 800.2(d)

14 <http://www.atntribes.org/tribal-memberships>

15 <http://www.macpra.org/>

16 <http://www.acf.hhs.gov/programs/ana/resource/american-indians-and-alaska-natives-what-are-state-recognized-tribes>

tribes.¹⁷ The U.S. Government Accountability Office has identified around 400 non-federally recognized tribal entities in the country.¹⁸ Some non-federally recognized tribes lost their recognition as a result of federal government actions in the 1950s and 1960s to terminate government-to-government relationships with tribes, making them now ineligible to apply to the Bureau of Indian Affairs (BIA) for recognition.

State-recognized tribes have existed since the end of the Colonial period, beginning in New England and the East Coast, and have had important roles in the development of policy over the centuries. Virginia, for example, has ten state-recognized tribes,¹⁹ and one of the earliest reservations in the country was established in 1666 in Connecticut for the Pequot Indians, a portion of which is occupied today by the State-recognized Eastern Pequot Tribal Nation.²⁰ In California, at least 45 tribal communities exist that were either terminated by the U.S. government as part of the federal termination policy of the 1950s-60s or never formally recognized.²¹ State-recognized and non-federally recognized tribes exist in a number of states across the country, as noted above, and are listed in an Appendix to this document.

If not already recognized by the U.S. government through treaties or presidential executive orders, tribes can become federally recognized in one of three ways: judicially (a federal court decision), congressionally (Congress passes law) or administratively (a determination by the Assistant Secretary of Indian Affairs) through a process outlined in 25 C.F.R. part 83 and evaluated by the BIA.²² Since the establishment of these regulations in 1978, many tribes have applied for acknowledgement, submitting documentation to demonstrate they meet the criteria outlined in the process. For tribes impacted by colonial settlement, Christianization and other acculturation factors for 400 years, providing uninterrupted documentation of their continued presence to satisfy the regulations can be a difficult or impossible task. While a number of tribes remain unrecognized because they could not provide sufficient evidence to demonstrate continued existence (without gaps) as a tribal entity throughout time, a number do retain status as State-recognized entities.

Examples of non-Federally Recognized Tribes

EXAMPLE 1:

Some tribes have consciously chosen not to pursue federal recognition for varying reasons. For example, the Wanapum Tribe of Washington has chosen this path and to remain independent from the federal government. It is an active tribe engaged in legal processes such as repatriation through the Native American Graves Protection and Repatriation Act (NAGPRA) and cultural preservation efforts through the tribe's heritage center.²³

EXAMPLE 2:

Other tribes have spent decades unsuccessfully working towards federal acknowledgement through the administrative process (25 C.F.R. part 83). The Nipmuc Nation of Massachusetts began federal acknowledgement efforts in 1980; two years after the regulations were established. The tribe had to demonstrate a continued presence (without gaps) through written documentation dating back to the early 1600s to satisfy requirements in the regulations. The tribe is state recognized with a tax-free reservation

17 For more information about Indian tribes in California and a list of federally and state recognized tribes, see <http://www.courts.ca.gov/3066.htm>.

18 <http://www.gao.gov/assets/600/590102.pdf>

19 <http://home.nps.gov/jame/historyculture/virginia-indian-tribes.htm>

20 <http://www.mashantucket.com/tribalhistory.aspx>; <http://www.easternpequottribalnation.com/history.html>

21 <http://www.courts.ca.gov/3066.htm>

22 For more information on tribal acknowledgment, see <https://www.bia.gov/WhoWeAre/AS-IA/OFA/> and <https://www.bia.gov/cs/groups/xraca/documents/text/1dc1-027486.pdf>

23 <http://wanapum.org>

and tuition-free education at state institutions for tribal members, but cannot take advantage of most federally-funded programs reserved for Indian tribes with federal acknowledgment due to an unsuccessful 30-plus year attempt to gain recognition.

EXAMPLE 3:

The Brothertown Indian Nation in Wisconsin is another tribe presently not recognized by the federal government. The tribe has roots in New England and New York, with historical connections to the Mohegan, Montauk, Narragansett, Niantic, Pequot and Tunxis peoples, in addition to the Oneida and Stockbridge-Munsee. After several moves westward from New England between the late 1700s and late 1820s, the tribe settled on the eastern shore of Lake Winnebago in Wisconsin. The tribe did not want to relocate again when Congress enacted the Indian Removal Act in 1830 and sought to move it to the Kansas Territory. Congress eventually granted the tribe's request for allotment of reservation land and U.S. citizenship, passing an Act on March 3, 1839 and preventing tribal members from being removed from their Wisconsin land base.²⁴

Like the Nipmuc Nation, the Brothertown Indian Nation filed a letter of intent to seek recognition under the acknowledgment regulations in 1980, after the government stopped extending benefits to the tribe and reclassified it as no longer federally acknowledged. In 1990, the Department of the Interior informed the tribe that the 1839 Congressional Act granting citizenship and allotment of the reservation was *not* a form of termination, but then in 2012 reversed this decision and stated that the 1839 Act *was* an act of termination, which therefore excluded the tribe from being eligible for modern-day recognition through the regulations.²⁵ From the perspective of the Brothertown Indian Nation, federal acknowledgement will be a "re-recognition" of what it once had as a reservation tribe, firmly established in Wisconsin for generations. The tribe asserts that it did not in any way see accepting citizenship and allotment of reservation land in the 1830s as forfeiting acknowledgement as Indian or as a tribe.²⁶

EXAMPLE 4:

Attempts to achieve federal recognition by the Lumbee Tribe of North Carolina began over 125 years ago, with efforts to obtain federal funding for an Indian school in Robeson County. The tribe has had a continuous presence in and around this area since the early 18th century. In 1885, the tribe was recognized by the state and has sought federal recognition since 1888. In 1956, Congress passed the Lumbee Act, also recognizing the tribe as Indian but withholding full benefits received by other recognized tribes. In 1987, the tribe petitioned the U.S. Department of the Interior for acknowledgment, which was denied due to language in the 1956 Lumbee Act. The tribe continues efforts to get legislation passed granting federal recognition but in the meantime retains status as a State-recognized tribe in North Carolina.²⁷

These are just a few examples that demonstrate the varying circumstances under which non-federally recognized tribal entities can exist in the 21st century, either from having lost federal acknowledgement

24 <http://www.brothertownindians.org/heritage/tribal-alliance/>; Kathleen Brown-Perez (personal communication)

25 Criterion (g) of the mandatory criterion for federal acknowledgment at 25 CFR § 83.7 states that: "Neither the petitioner nor its members are the subject of congressional legislation that has expressly terminated or forbidden the Federal relationship." <http://www.bia.gov/cs/groups/xofa/documents/text/idc-021391.pdf>

26 <http://www.brothertownindians.org/government/recognition-restoration/>; Kathleen Brown-Perez (personal communication)

27 <http://www.lumbeetribe.com/#!history--culture/c20mm>

through previous laws or actions, failing to satisfy the federal acknowledgement criteria,²⁸ or choosing not to pursue acknowledgment by the U.S. government as an assertion of genuine sovereignty.

Conclusion

While a statutory requirement exists to include Indian tribes and NHOs in Section 106 consultations, federal agencies should remember that non-federally recognized tribes can and often should also be involved. Their contributions to the process can include a deep knowledge of the history and resources in their homelands, including the identification of historic properties that should be considered in the Section 106 process. For example, the Wanapum of Washington and Nipmuc of Massachusetts have lived in their homelands for thousands of years, and the Lumbee of North Carolina has occupied their present-day homelands for generations.

Additionally, many non-recognized tribes are currently going through the acknowledgement process, and may become recognized in the future. The Pamunkey Tribe of Virginia had been one of 11 state-recognized tribes in that state until it received federal recognition through the administrative process.²⁹ Their participation in the Section 106 process will now be mandatory when an undertaking may affect historic properties of religious and cultural significance to them. The Pamunkey Tribe of Virginia is an example of how including non-federally recognized tribes (that sometimes go on to become federally recognized) can only strengthen the Section 106 process. Some state laws and regulations include special provisions for non-recognized tribes, as well, that could be taken into account when deciding whether to include these groups in Section 106 consultations at the federal level.

Members of non-recognized tribes are also American citizens, entitled to the same considerations all citizens have in the Section 106 process as part of the general public. The regulations provide that participants in the process may include individuals and organizations with a demonstrated interest in federal undertakings and that the views of the public must be considered.³⁰ Non-recognized tribes may fall into either of these categories.

International support, in the U.N. Declaration, encourages recognition of the special status and rights of indigenous peoples, and the ACHP acknowledges intersections of the U.N. Declaration and Section 106. Federal agencies may invite state-recognized tribes or tribes with neither federal nor state recognition to participate in consultation as “additional consulting parties” based on a demonstrated interest in an undertaking’s effects on historic properties. Many non-federally recognized tribes still have ancestral ties to an area or still occupy their aboriginal territory, or can contribute to identification and documentation of historic properties in other ways through their knowledge and expertise.

28 Recently revised so tribes do not have to document continuity back to colonial times but only to 1900; <http://www.bia.gov/cs/groups/public/documents/text/idx1-030769.pdf>; <http://www.ecfr.gov/cgi-bin/text-idx?SID=64048aabd80c642ca2ec39623166d704&mc=true&node=pt25.1.83&rgn=div5>

29 A determination in favor of recognition was made in July 2015, which was finalized following an appeals process initiated by a one-person non-profit organization from California opposing the tribe’s recognition (https://www.washingtonpost.com/local/federal-recognition-put-on-hold-for-virginias-pamunkey-indian-tribe/2015/10/08/479dd9e0-6dcf-11e5-b31c-d80d62b53e28_story.html); https://www.washingtonpost.com/local/virginias-pamunkey-withstand-challenge-to-tribes-federal-recognition/2016/02/01/43563890-c924-11e5-a7b2-5a2f824b02c9_story.htm; <http://www.npr.org/sections/thetwo-way/2015/07/02/419564831/virginias-pamunkey-tribe-granted-federal-recognition>)

30 36 C.F.R. § 800.2

The historical reasons, some of which are discussed here, why many tribes across the country are not recognized by the federal government should also be considered in making decisions regarding Section 106 consultation with these tribes. The four examples provided in this document demonstrate how past actions of the U.S. government, obstacles faced by tribes in the government's acknowledgement process, and a type of limbo status can result in tribal entities without federal recognition regardless of their long histories. Lack of federal recognition, however, does not invalidate valuable information or legitimate interests they have that should be considered in the Section 106 process.

Thus, while federal agencies cannot (and should not) ignore distinctions between Indian tribes and non-recognized tribes, non-recognized tribes certainly may have valuable contributions to make in the Section 106 process, and their concerns should be given respectful consideration.

More information about Section 106 can be found at www.achp.gov.

APPENDIX

State- and Non-Recognized Tribes – East of the Mississippi³¹

Northeast and Great Lakes

Connecticut

Eastern Pequot Tribal Nation
 Golden Hill Paugussett
 Schaghticoke Tribal Nation

Delaware

Lenape Indian Tribe of Delaware
 Nanticoke Indian Association, Inc.

Indiana

Hawk Band of Metis Indians
 Kispotaka Shawnee

Massachusetts

Assonet Band of Wampanoag
 Chaubunagungamaug Nipmuck
 Chappaquiddick Wampanoag
 Herring Pond Wampanoag Tribe
 Nipmuc Nation (Hassanamisco Band)
 Pocasset Wampanoag Tribe
 Seaconke Wampanoag Tribe

Michigan

Burt Lake Band of Ottawa and Chippewa Indians
 Grand River Bands of Ottawa Indians
 Mackinaw Bands of Chippewa and Ottawa Indians
 Wyandot of Anderdon Nation

New Jersey

Nanticoke Lenni-Lenape Indian of New Jersey
 Powhatan Renape Nation
 Ramapough Lunaape Nation
 Sand Hill Band of Indians
 Sand Hill Indian Historical Association
 Cherokee Nation of New Jersey
 Cherokee Tribe of New Jersey

New York

Tonawanda Band of Seneca (also federally recognized)

³¹ This Appendix was compiled through a number of sources, including state historic preservation and archaeology offices, research of web-based sources, and the National Conference of State Legislators, <http://www.ncsl.org/research/state-tribal-institute/list-of-federal-and-state-recognized-tribes.aspx#State>

Tuscarora Nation (also federally recognized)
 Unkechaug Nation

Ohio

Munsee Delaware Indian Nation-USA
 Shawnee Nation United Remnant Band
 Saponi Nation of Ohio, Inc.
 Allegheny Nation (Ohio Band)
 North Eastern United States Miami Inter Tribal Council
 Lower Eastern Ohio Mekoce Shawnee
 Piqua Sept of Ohio Shawnees

Vermont

Elnu Abenaki Tribe
 Koasek Abenaki Tribe
 Nulhegan Band of the Coosuk Abenaki Nation
 Mississquoi Abenaki Tribe

Central/Southeast

Alabama

Cher-O-Creek Intra Tribal Indians
 Cherokee Tribe of Northeast Alabama
 Cherokees of Southeast Alabama
 Echota Cherokee Tribe of Alabama
 Ma-Chis Lower Creek Indian Tribe of Alabama
 Mowa Band of Choctaw Indians
 Piqua Shawnee Tribe
 Star Clan of Muscogee Creeks
 United Cherokee Ani-Yun-Wiya Nation

Georgia

Cherokee of Georgia Tribal Council
 Georgia Tribe of Eastern Cherokee
 Lower Muskogee Creek Tribe

Maryland

Accohannock Indian Tribe, Inc.
 Assateague Peoples Tribe
 Cedarville Band of Piscataway Indians, Inc.
 Choptico Band of Piscataway
 Nause-Waiwash Band of Indians, Inc.
 Piscataway-Conoy Tribe
 Piscataway Indian Nation
 Pocomoke Indian Tribe, Inc.
 Youghiogheny River Band of Shawnee Indians, Inc.

North Carolina

Coharie Tribe
 Haliwa-Saponi Indian Tribe

Lumbee Tribe of North Carolina
 Meherrin Indian Tribe
 Occaneechi Band of the Saponi Nation
 Sappony
 Waccamaw Siouan Tribe

South Carolina

Beaver Creek Indians
 Edisto Natchez Kusso Tribe of South Carolina
 Pee Dee Nation of Upper South Carolina
 Pee Dee Indian Tribe of South Carolina
 Santee Indian Organization
 Sumter Tribe of Cheraw Indians
 The Waccamaw Indian People
 Wassamasaw Tribe of Varnertown Indians

Virginia

Cheroenhaka (Nottoway)
 Chickahominy Tribe
 Eastern Chickahominy Tribe
 Mattaponi
 Monacan Nation
 Nansemond
 Nottoway of Virginia
 Pamunkey (also federally recognized)
 Pattawomeck
 Rappahannock
 Upper Mattaponi Tribe

State- and Non-Recognized Tribes - West of Mississippi

California

Amah Mutsun Tribal Band
 Amah Mutsun Tribal Band of Mission San Juan Bautista
 Barbareno/Ventureno Band of Mission Indians
 Calaveras Band of Mi-Wuk Indians
 Chumash Council of Bakersfield
 Coastal Band of the Chumash Nation
 Coastanoan Rumsen Carmel Tribe
 Costanoan Ohlone Rumsen-Mutsen Tribe
 Dumna Wo-Wah Tribal government
 Dunlap Band of Mono Indians
 Gabrieleno Band of Mission Indians
 Gabrieleno/Tongva San Gabriel Band of Mission Indians
 Gabrielino /Tongva Nation
 Honey Lake Maidu

Indian Canyon Mutsun Band of Costanoan
Juaneño Band of Mission Indians
Juaneno Band of Mission Indians Acjachemen Nation
Kern Valley Indian Council
Kitanemuk & Yowlumne Tejon Indians
Klamath Tribe
Koi Nation of Northern California
KonKow Valley Band of Maidu
Kwaaymii Laguna Band of Mission Indians
Laytonville Rancheria/Cahto Indian Tribe
Lone Pine Paiute Shoshone Reservation
Los Coyotes Band of Mission Indians
Mono Lake Indian Community
Muwekma Ohlone Indian Tribe of the SF Bay Area
Nashville-El Dorado Miwok
Nor-Rel-Muk Nation
North Fork Mono Tribe
North Valley Yokuts Tribe
Northern Chumash Tribal Council
Noyo River Indian Community
Ohlone/Coastanoan-Esselen Nation
Roaring Creek Rancheria
Salinan Tribe of Monterey, San Luis Obispo Counties
San Fernando Band of Mission Indians
San Luis Rey Band of Mission Indians
Serrano Nation of Mission Indians
Shasta Nation
Southern Sierra Miwuk Nation
Stewarts Point Rancheria
T' si-Akim Maidu
The Ohlone Indian Tribe
Traditional Choinumni Tribe
Tsnungwe Council
Tubatulabals of Kern Valley
Upper Lake Band of Pomo
Wadatkuta Band of the Northern Paiute of the Honey Lake Valley
Walker River Reservation
Winnemem Wintu Tribe
Wintu Tribe of Northern California
Wuksache Indian Tribe/Eshom Valley Band
Xolon-Salinan Tribe
yak tityu tityu - Northern Chumash Tribe

Louisiana

Adai Caddo Tribe
Attakapas Ishak Nation

Biloxi-Chitimacha Indians - Bayou Lafourche Band
Biloxi-Chitimacha Indians - Grand Caillou/Dulac Band
Biloxi-Chitimacha Indians – Isle de Jean Charles Band
Choctaw-Apache Tribe of Ebarb
Clifton Choctaw Tribe of Louisiana
Four Winds Tribe Louisiana Cherokee
Louisiana Band of Choctaw Indians
Louisiana Choctaw Turtle Tribe
Pointe-Au-Chien Indian Tribe
Talimali Band of Apalachee
United Houma Nation

Montana

Little Shell Tribe of Chippewa Indians

Washington

Chinook Indian Tribe
Duwamish Tribe
Wanapum Tribe

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